IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

RCRev..No. 154 of 2007

RCA.43/2002 of RENT CONTROL APPELLATE AUTHORITY, ALAPPUZHA
RCP.30/2000 of RENT CONTROL COURT, CHERTHALA
.....

PETITIONER/APPELLANT/RESPONDENT:

SARASAN, S/O KUMARAN,PROPRIETOR,
CHITHRA ENGINEERING WORKS,
T.B.ROAD, VADAKKU VILLAGE, CHERTHALA.

BY ADV. SRI.E.G.GORDEN
SRI.N.SAJAN ANTONY
SRI.S.K.PREMJITH MENON
SRI.G.ANOOP MOHAN

RESPONDENT/RESPONDENT/PETITIONER:

MITHRA, S/O AYYAPPAN, K.A.M.LODGE,
PROPRIETOR, C.M.C.WARD NO.V.VADAKKUM
MURI, VADAKKU VILAGE, CHERTHALA.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 30/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

R.C.R.No. 154 of 2007

ORDER

Balachandran, J.

The tenant in R.C.P.No.30/00 on the file of the Rent Control Court, Cherthala is the revision petitioner. The respondent/landlord filed the said rent control petition against the petitioner under Section 11(4)(iv) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act'). The claim was allowed by the Rent Controller, directing the respondent/landlord to complete re-construction of the building within six months from the date on which the tenant or the court puts him in possession of the room and if the landlord does not put the tenant in possession immediately after completion of re-construction of the building or if the landlord does not complete re-construction within the time stipulated, the tenant will be entitled to move the Rent Control

Court to compel the landlord to put him back in possession with similar amenities. The petitioner/ tenant challenged the said order of eviction before the Rent Control Appellate Authority. The appellate authority concurred with the findings of the Rent Control Court and dismissed the appeal.

2. It is contended before us by the learned counsel for the petitioner/tenant that altogether there are six other tenants under one roof other than himself and that the petitioner has not sought to get eviction of the other tenants. It goes without saying that without evicting all the tenants the respondent/landlord will not be able to effect re-construction of the building as proposed. But, when confronted with the observation in the judgment of the appellate authority that the landlord has given petitions to vacate the tenants from all the seven rooms in the building and that one of the tenants named Cletus is already ordered to be evicted, counsel for the petitioner submitted that petitions for eviction are filed by the

respondent/landlord against all the tenants, but that in all those cases orders of eviction are not passed. His contention is that even assuming that the petitioner/tenant is evicted, re-construction of the building will not be possible within six months and even re-construction cannot be started before evicting all other tenants as well and therefore, order of eviction passed as against the petitioner may not be allowed to be implemented.

3. There is no much merit in the argument advanced for the reason that any one of the seven tenants will have to be evicted first and eviction of other tenants can only follow and it is not practicable to have eviction of the tenants together on any particular day. We see no merit at all in this revision, so as to interfere with the concurrent findings of the authorities below.

In the result, we dismiss this Rent Control Revision. All the same, it is directed, considering the practicability and feasibility of eviction and re-construction, that either side can move the

execution court to have the delivery adjourned appropriately, so that re-construction of the building within six months, as ordered by the authorities below, will not be rendered impracticable on eviction of the petitioner. It is also, however, made clear that the above direction is not meant to withhold delivery of the scheduled building from possession of the petitioner till all the other tenants are evicted and possession of the rooms in their possession are delivered over to the respondent/landlord. The execution court, in its wisdom, can order delivery appropriately so that there will not be much gap between the delivery of possession of the portions of the building in occupation of all the tenants to the respondent/ landlord.

(J.B.Koshy, Judge)

30th May, 2007

(K.P.Balachandran, Judge)

tkv